

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

MICHAEL GARRISON, GEORGE DAVIS,  
ERNIE JONES and RONALD WORDEN,

Plaintiffs,

Case Number: 09-10231

HON. LAWRENCE P. ZATKOFF

v.

MICHIGAN DEPARTMENT OF  
CORRECTIONS, ET AL.,

Defendants.

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**OPINION AND ORDER ADOPTING MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION**

Plaintiffs filed the instant action seeking injunctive relief and compensatory and punitive damages for alleged violations of their civil rights by the Defendants. This matter is currently before the Court on Magistrate Judge Charles Binder's Report and Recommendation of October 16, 2009 (Docket #45), wherein the Magistrate Judge recommends that Defendants' Motion to Dismiss or for Summary Judgment (Docket #37) be granted, and that Plaintiffs' Motion for Temporary Restraining Order or Preliminary Injunction (Docket #11), Motion to Amend Complaint (Docket #28) and Motion for Summary Judgment (Docket # 40) be denied.

After a thorough review of the court file, the respective parties' briefs, the Report and Recommendation, and the objections to the Magistrate Judge's Report and Recommendation filed by Plaintiffs, this Court will adopt the Report and Recommendation and enter it as the findings and conclusions of this Court, with one exception, as set forth below.

The Court finds that the *Rooker-Feldman* doctrine<sup>1</sup> does not operate to bar Plaintiffs' claim against Defendant Julius O. Curling because Plaintiffs' claim against Defendant Curling does not stem from a state court judgment against any of the Plaintiffs. As the Magistrate Judge recognized, however, Defendant Curling has absolute prosecutorial immunity because his alleged activities were "in conjunction with his duties in functioning as a prosecutor." See *Spurlock v. Thompson*, 330 F.3d 791, 797 (6<sup>th</sup> Cir. 2003) (citations omitted); *Imbler v. Pachtman*, 424 U.S. 409, 430 (1976). Accordingly, the Court adopts the Magistrate Judge's conclusion that Plaintiffs' cause of action against Defendant Curling should be dismissed.

Therefore, IT IS HEREBY ORDERED that Defendants' Motion to Dismiss or for Summary Judgment (Docket #37) is GRANTED. IT IS FURTHER ORDERED that (1) Plaintiffs' Motion for Temporary Restraining Order or Preliminary Injunction (Docket #11) is DENIED, (2) Plaintiffs' Motion to Amend Complaint (Docket #28) is DENIED, and (3) Plaintiffs' Motion for Summary Judgment (Docket # 40) is DENIED. Accordingly, this case is hereby DISMISSED WITH PREJUDICE. Judgment shall be entered accordingly.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF

UNITED STATES DISTRICT JUDGE

Dated: December 9, 2009

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<sup>1</sup>*Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 414-15 (1923); *D.C. Court of Appeals v. Feldman*, 460 U.S. 462, 478-79 (1983).

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on December 9, 2009.

S/Marie E. Verlinde

Case Manager

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